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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

VERBATIM RECORD OF THE THREE HUNDRED AND SIXTY-FIRST MEETING

Held at Graz, Austria,
on Tuesday, 4 June 1991, at 10.30 a.m.

Chairman: Mr. HOHENFELLNER (Austria)

- Organization of work

- Report of the Legal Subcommittee on the work of its thirtieth session

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The meeting was called to order at 10.45 a.m.

ORGANIZATION OF WORK

The CHAIRMAN: This afternoon, it is my intention to conclude our consideration of item 8 and to continue our debate on item 10, "Spin-off benefits of space technology: review of current status".

REPORT OF THE LEGAL SUBCOMMITTEE ON THE WORK OF ITS THIRTIETH SESSION (A/AC.105/484) (continued)

Mr. TISLER (Czechoslovakia): I should like to outline the position of my delegation with regard to the main items on the agenda of the Legal Subcommittee, the report of which is now under consideration. Amongst these, the most progress has been made on the item concerning draft principles relevant to the use of nuclear power sources in outer space. At the 1990 session of the Subcommittee, in Geneva, the text of principle 3 was adopted in the Working Group by consensus, and thus one of the most difficult stumbling blocks was successfully overcome. The progress reached gave us reason to believe that the elaboration of the principles on nuclear power sources might be finalized soon, perhaps at this session of our Committee.

However, the situation changed during the spring, and we have to decide how to proceed further under these circumstances. My delegation shares the view that our efforts should now concentrate on the remaining issues of the draft principles, particularly principles 8 and 9, dealing with responsibility, and liability and compensation. I recall that the delegation of Czechoslovakia, together with a number of other countries, sponsored working paper A/AC.105/C.2/L.184 of 8 April 1991, which in our opinion has provided a solid basis for further discussions. If a consensus on these two principles could be reached soon, new impetus would be given to the work of the Legal Subcommittee and its Working Group to reach our final goal and

(Mr. Tisler, Czechoslovakia)

present a new contribution to the progressive development of space law by the United Nations.

As to the matters relating to the definition and delimitation of outer space and to the utilization of the geostationary orbit, my delegation already recommended at the Legal Subcommittee's session that we start discussing this item on a new basis - that is, thoroughly explore the real needs for such a definition in the light of the specific conditions of present space projects and of those expected in the future. In my delegation's opinion, consideration of the legal aspects of aerospace vehicles, which have already become one of the targets of research and development in some countries, could also shed new light on the problem of the definition and delimitation of outer space.

As to the item concerning the carrying out of the exploration and utilization of outer space for the benefit of all States, taking into account the needs of developing countries, my delegation has from the very beginning shared the view that consideration of this item should lead to the strengthening and further development of international cooperation in the exploration and poeaceful uses of outer space, in accordance with the principles of the 1967 outer space Treaty and other relevant space law documents. My delegation welcomes the fact that the first steps on this path were taken during the last session of the Legal Subcommittee and its newly established Working Group. In particular, the working paper submitted by nine developing countries, which is contained in document A/AC.105/C.2/L.182 of 9 April 1991 and which includes draft principles regarding international cooperation in the exploration and utilization of outer space for peaceful purposes, deserves our full attention. It should be considered in greater detail at the next session of the Legal Subcommittee and its Working Group.

(Mr. Tisler, Czechoslovakia)

Permit me, Mr. Chairman, also to express through you our thanks to the representatives who have spoken such kind words about the Chairman of the Legal Subcommittee, Mr. Vaclac Mikulka. Unfortunately, he cannot be with us in Graz because of his duties in New York.

I shall ask my colleague to make our statement with regard to item 4 on the Legal Subcommittee's agenda.

Mr. PEREK (Czechoslovakia): In regard to the item on the geostationary orbit, my delegation would like to present a few comments on the "working non-paper" which appears on pages 24 and 25 of the report of the Legal Subcommittee. We agree with the first three paragraphs. In particular we support paragraph 3, on the use of the orbit exclusively for peaceful purposes.

We find paragraph 4 scientifically correct, but it need not apply only to the geostationary satellites. Similar or practically identical wording could be used for many other groups of orbits. In fact, a group of orbits is frequently selected according to its relation to the Earth. However, we have no problem with this paragraph.

Paragraph 7 deals with claims by a developed country and a developing country to access to the same orbital position. In this respect we find the thirtieth report of the International Telecommunication Union (ITU), which was placed before the Committee yesterday, of great use. On page 17 of that report there is a table that lists all the geostationary satellites which either have already been notified to the Master International Frequency Register or are in the process of coordination. We have found six instances in which the same orbital position was or is being used by two different countries, two different satellites. No difficulties have been encountered in the coordinating process, and no harmful interference has been established.

(Mr. Perek, Czechoslovakia)

Thus, we would just like to point out that the orbital position is not the only important parameter. There is also the frequency that is used, the service area, which may be quite different for two given satellites, and other technical parameters. It is the opinion of my delegation that the ITU, in its coordinating process, is taking all these parameters into account and that the coordinating process with regard to all the systems already in space is being followed for any new system. We very much value the results achieved by the ITU in this respect and we do not know of any case in which access to the orbit has been denied to an administration requesting a position in it.

There is another question related to the geostationary orbit that adversely affects the rational and effective use of the orbit, as referred to in paragraph 5 of the working non-paper. It arises from the fact that the ITU is interested primarily in radio communications. Therefore, in its list of technical terms, we find the term "space station", which is a radio station operating on an object that has been launched into outer space. Once the transmissions are terminated, the object is no longer a space station, and once it is removed from the Master International Frequency Register it becomes of no interest to the ITU.

But the object stays in the orbit as a material body, and it still may cause some physical interference such as direct contact, shadowing, affecting the electrical field, and so on. Therefore, close encounters in the geostationary orbit may be risky, and on several occasions in the past evasive manoeuvres have been used by various operators of satellites. The question was discussed at the first session of the ITU Conference on the geostationary orbit, which took place in 1985. The scientific body of the ITU, the International Radio Consultative Committee (CCIR), was asked to present a

(Mr. Perek, Czechoslovakia)

paper on the subject. But the paper was not really conclusive and the second session of the Conference did not deal with it. I fear that this is an indication that the ITU is not concerned about having a mandate in areas outside radio communications.

In this direction, this Committee might perhaps contribute in a significant way to the rational and effective use of the geostationary orbit as called for in paragraph 5 of the working non-paper. The technical solution for this is known. It lies in removing satellites at the end of their active lifetimes to disposal orbits that are situated beyond the geostationary orbit. Since the first time that satellites were removed to disposal orbits in 1977 - already 14 years ago - by the International Telecommunications Satellite Organization (INTELSAT), the procedure has been followed by several operators of geostationary satellites.

Today there are over 30 satellites that have been removed from the orbit, but we still have no international recommendation or provision that would take care of this. The matter was also discussed at the Second United Nations Conference on the Exploration and Peaceful Uses of Outer Space (UNISPACE 82) and there was a recommendation to follow this practice. It appears in the report of the Conference. I am not sure whether, when we engaged in the overview of all recommendations of UNISPACE 82, this recommendation did not escape our attention. If it did, perhaps we should put it on the list of all the recommendations which are there. It can be found in paragraph 283 of the relevant document.

In brief, I would leave it to your consideration, Mr. Chairman, whether this Committee should not invite the Legal Subcommittee, inter alia, also to direct its attention to non-functional bodies in the geostationary orbit.

Ms. REDEKER (Germany): My delegation is of the opinion that, within the work undertaken by the Legal Subcommittee, the set of principles governing the uses of nuclear-power sources in outer space deserves special emphasis. I would like to stress that the Government of the Federal Republic of Germany is convinced of the importance and expediency of these principles. The fact that consensus has now been reached on more than half of the principles to be negotiated - mainly those of key significance - is gratifying and encouraging.

This consensus, which was brought about after many years of rational debate among the experts of the Scientific and Technical Subcommittee, must be preserved. A reopening of the debate on the principles on which consensus has already been reached would not only considerably delay the adoption of the set of principles as a whole, but might even jeopardize it. We should concentrate our efforts on reaching agreement on the remaining principles, particularly in view of the fact that the existing obstacles to agreement as regards principles 1 (a), 4, 8, 9 and 12 do not seem insurmountable. Although, to my delegation's great regret, no agreement was reached on these principles at the last session of the Legal Subcommittee, consensus appears to be near at hand.

In collaboration with the Canadian delegation, we submitted a working paper, in document A/AC.105/C.2/L.154/Rev.9, at the close of the Subcommittee's last session. This working paper is the result of numerous consultations with other member States, which it took into account, and in our opinion therefore represents a good basis for consensus.

I should like to comment on the other topics on the Legal Subcommittee's agenda. Unfortunately, no tangible progress has yet been made in the debate on matters relating to the definition and delimitation of outer space and to

(Ms. Redeker, Germany)

the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the ITU. For us, the space Treaty which, regrettably, has still not been acceded to by all Member States, constitutes the authoritative instrument for the legal regime of the geostationary orbit. My country's position in this matter is well known and continues to apply.

With regard to the topic "Consideration of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interest of all States, taking into particular account the need of developing countries", I would like to emphasize once more the significance of the four-phase working programme. A large number of the outer space Committee's member States, including ourselves, has now complied with the request to provide a survey of their national legislation in the field of space flight and of their cooperation with developing countries. My delegation welcomes the compilation of these answers by the Chairman of the sub-working group. In this manner, a solid basis for the further discussion of this matter could be laid.

To sum up, I would like to characterize the work of the Legal Subcommittee as valuable and fruitful. I conclude by expressing the hope that the willingness of all members to cooperate in a constructive manner will enable us to find fair, balanced consensus solutions to the issues under discussion.

Mr. FUJITA (Brazil): In the view of my delegation the thirtieth session of the Legal Subcommittee may be deemed to be a productive one if members consider that one old item, which has been a long-standing source of concern to the Subcommittee, was almost finalized; that another, even older, item, which had not progressed during our considerations, showed some encouraging movement; and that the Subcommittee began to explore one new item, hopefully for the benefit and in the interests of all countries concerned.

Much of the credit for that progress goes to the Chairman of the Legal Subcommittee, Mr. Vaclav Mikulka, and to the Chairmen of the respective Working Groups, Mr. Hans Winkler, Mr. Estanislao Zawels and Mr. Raimundo Gonzalez. My delegation wishes to express its deep appreciation to all of them for their efforts. Recognition is also due those delegations that have participated actively and constructively in the discussions, displaying flexibility and a sense of compromise in harmonizing their national positions with the concerns of the international community.

Turning to the item on the elaboration of draft principles relevant to the use of nuclear power sources in outer space, with the aim of finalizing the draft set of principles, my delegation remains deeply committed to reaching a successful conclusion of this work at the earliest possible date. The international community urgently needs a clear set of principles that can ensure appropriate protection to the Earth's peoples and environment against the hazards of accidents involving nuclear power sources. By virtue of its large territory and population and of its geographical location that makes it vulnerable to space accidents, Brazil attaches great importance to finding a satisfactory solution to this question, which will increase the confidence of peoples in the scientific and technological advances that are supposed to be for their benefit.

(Mr. Fujita, Brazil)

As it has a very open-minded and flexible attitude, designed to expedite the finalization of the draft set of principles on nuclear power sources, my delegation can state that it very much welcomes the progress made on the drafting of some of the pending principles examined at the last session of the Subcommittee. We very much appreciate the meritorious efforts undertaken, in particular by the delegations of Canada and Germany, with a view to bridging the few remaining gaps. We are doing our utmost to help them in their endeavour.

However, to be entirely truthful in our evaluation we must clearly point out that, despite the flexibility we have been demonstrating in the negotiations in order to facilitate overall consensus on all - and I stress: all - pending principles, we regret to note that one point of fundamental concern to my delegation has yet to be addressed in an appropriate manner, namely, the question of previous notification. As members are well aware, Brazil's preferred position is to retain that point under principle 2 as contained in working paper A/AC.105/C.2/L.154/Revs.6 and 7. However, some delegations have proposed that principles 2 and 4 should be considered together under the single heading of "Safety assessment" in a new principle 4 as contained in working document A/AC.105/C.2/L.154/Rev.9. Although my delegation considers this suggestion not to be the most appropriate from the standpoint of our concerns - because it is our understanding that each principle must deal with one concept only - we have none the less not opposed the merger to which I have referred, provided that each concept, that is, previous notification and prior safety assessment, is retained in a clear way in the resulting text. In this regard, we are in total agreement with the statement made yesterday by the delegation of China that while principles 2

(Mr. Fujita, Brazil)

and 4 are interrelated to a certain extent, they are different in nature. If we correctly understood that statement, the draft text should incorporate all elements of both concepts, namely, prior notification and safety assessment, whether they are laid down in two different principles or under a single one. My delegation fully shares this position.

Principle 4 should be all the more thoroughly and carefully drafted as it has a fundamental bearing on the question of responsibility and liability, contained in principles 8 and 9. In this regard, all relevant elements should be covered in principle 4, including the question of the timeliness of the safety assessment and notification, with a view to ensuring full coverage of its full implications for the question of repsonsibility and liability. It is therefore our hope that a satisfactory solution can be found to this question, which is of paramount concern to some delegations, including mine. We expect other delegations to demonstrate the same flexibility on this question that we have displayed with regard to other principles which are not entirely to our satisfaction but which we are none the less prepared to live with for the sake of speedily concluding our work.

As to the item on the definition and delimitation of outer space and the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union, my delegation is glad to note that two promising initiatives were taken at the Subcommittee's last session that may allow movement forward on some aspects of this item. The first initiative was a suggestion made by the delegation of the Soviet Union that the Subcommittee should discuss at its next session the question of international legal aspects

(Mr. Fujita, Brazil)

of future exploitation of aerospace systems. To that end, a working paper containing specific draft provisions may be presented by that delegation next year. My delegation encourages the presentation of such a working paper and looks forward to examining it, since it could help us to address in a practical way the long-standing difficulties regarding the delimitation of outer space.

The second initiative was the presentation by the delegation of Colombia of a "working non-paper", whose content and purposes were so eloquently explained by Mr. Rey Cordoba yesterday. My delegation deems that document to be a good basis for future discussion, and regards as very praiseworthy the constructive attitude demonstrated by the delegation of Colombia with the aim of giving new momentum to the discussion under this item.

Lastly, regarding the item on consideration of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries, my delegation is very encouraged by the good initial response on the part of most delegations to document A/AC.105/C.2/L.182, on principles regarding international cooperation in the exploration and utilization of outer space for peaceful purposes. That working paper was presented by Argentina, Brazil, Chile, Mexico, Nigeria, Pakistan, the Philippines, Uruguay and Venezuela at the Legal Subcommittee's last session. In this regard, we also appreciate the skilful way in which the Chairman of the Working Group, Mr. Raimundo Gonzalez, conducted the work, which very much helped to provide a good initial momentum for the working paper.

(Mr. Fujita, Brazil)

The main objective of the working paper is to try to identify, by means of a multilateral exercise, a set of principles that would serve as universally agreed guidelines for the promotion of international cooperation in the field of outer space with a clearly defined framework of rights and duties for all parties concerned.

(Mr. Fujita, Brazil)

The main parameters of the future draft principles should be transparency, predictability, equity, effectiveness and mutual benefit in international cooperation in outer space. They should ultimately result in fostering and strengthening indigenous space capabilities, particularly in developing countries, the smooth exchange of space resources among countries and the widest possible diffusion of space benefits among the peoples of the world.

The document presented by the nine delegations is but a starting-point for this joint exercise in reflection on the most promising areas of discussion and the implementation of priorities. It is an exercise entirely open to re-evaluation, as well as to the incremental consolidation of the subjects. It should not be understood in the framework of a simplistic and unidirectional relationship between suppliers and recipients or between developed and developing countries. Rather, it should aim to build an innovative partnership for a new agenda of multilateral cooperation, in which the paramount objective is the fullest possible exploration and utilization of outer space for the benefit and in the interests of all countries.

Mr. LAPYTSKY (Ukrainian Soviet Socialist Republic) (interpretation from Russian): At the very outset, my delegation should like to highlight the importance of the issues considered by the Legal Subcommittee at its thirtieth session. As States step up their space activities, these issues are becoming increasingly topical, and it is becoming more and more urgent to solve them. The Subcommittee clearly carried out considerable work, and progress was made in certain fields. We thought that the Subcommittee was close to finalizing the draft principles on the use of nuclear power sources in outer space. This was helped by consensus on the main issues, in particular, the wording of principle 3, which takes fully into consideration the scientific and technical

(Mr. Lapytsky, Ukrainian SSR)

recommendations on the safe use of such nuclear power sources. However, as members are aware, at the thirtieth session of the Subcommittee a proposal was made to review this principle, which had virtually been adopted by the Subcommittee. This turn of events is certainly a matter of concern. The delegation of the Ukrainian Soviet Socialist Republic would like to stress that it fully shares the position of those delegations that believe that nuclear power sources should be used only for those space flights that could not be carried out without them. We call for the establishment of a legal framework, which would require States to use nuclear power sources with maximum care. We base this appeal on our own recent experience. The entire international community is aware of the serious consequences of the accident that occurred on 26 April 1986 at the Chernobyl nuclear power plant, and should draw a lesson from them.

A very important condition for ensuring the safe use of nuclear power sources in outer space is the establishment of a clear system of international control. In this regard, my delegation is concerned that the question of notification has not been solved, that is, the obligation of States to issue notification of the launch of space objects with nuclear power sources on board and notification of accidents. In our view, the combining of principles 2 and 4, as discussed in the Subcommittee, could obscure the idea of notification, which would in turn weaken the document. This possibility should be taken into consideration in the future work of the Subcommittee. My delegation believes that it is extremely important to publish materials on the safety assessment of space objects with nuclear power sources on board whenever such an object is launched.

(Mr. Lapytsky, Ukrainian SSR)

The issue of State responsibility for compensation of damage caused should be regulated by law. Legal norms should clearly be compatible with the clauses of the Convention on Early Notification of a Nuclear Accident and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, which were adopted by the International Atomic Energy Agency (IAEA) in 1986.

The Subcommittee has long been endeavouring to solve the issue of the definition and delimitation of outer space. The Ukrainian delegation believes that the deadlock can be broken. We do not perceive any obstacles, be they legal, scientific or technical. Members should also take into consideration the fact that most delegations are in favour of delimiting outer space, a position that we share. The Ukraine is of the view that the concept of air space, which is a part of State sovereignty, with all its implications, should become a legal concept separate from that of outer space, which is open for all countries' exploration and utilization. Since no consensus has so far been reached on this issue, we should look for other ways to move ahead. In our opinion, one way of doing so is through the suggestion to consider under this agenda item the international legal aspects of operating aerospace devices within specific altitudes. Such a discussion could help the Committee more clearly to understand the issue of delimiting outer space and would facilitate the practical development of international legal norms and principles on the operation of aerospace systems at certain altitudes, including peaceful flight through the air space of other States.

As to the character and utilization of the geostationary orbit, my delegation shares the opinion that the geostationary orbit is inseparable from

(Mr. Lapytsky, Ukrainian SSR)

outer space and cannot become the property of a State through a proclamation of sovereignty over it or by any other means. The geostationary orbit is a limited natural resource, which should be used rationally and in the interests of the international community as a whole. We believe that all States are entitled to equal access to the geostationary orbit in accordance with clause 33 of the 1982 ITU Convention.

(Mr. Lapytsky, Ukrainian SSR)

We are in favour of the development of a legal regime governing the utilization of this orbit, based on the norms and principles of international law. The Ukrainian delegation believes that the working document submitted by a number of delegations at the last session could constitute the basis for further discussion.

We attach great importance to considering the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries. The result of this work should in our view be further to strengthen the legal foundations of, and to broaden international cooperation in, the field of the exploration and utilization of outer space for peaceful purposes. We trust that the Subcommittee's discussion on this issue will be constructive and helpful, and that it will encourage an increasing number of countries, particularly developing countries, to take part in space activities and to avail themselves of the benefits of such activities.

In conclusion, I should like to emphasize once again that the Ukrainian delegation does not believe that there are insurmountable obstacles to the Subcommittee's taking consensus decisions acceptable to all on the issues under discussion. To that end, the only prerequisites are the display of political will, the adoption of a constructive, creative approach and the desire to balance the interests of all delegations.

Ms. DAPUL (Philippines): Since my delegation made some comments earlier, during the general exchange of views, on the item relating to the elaboration of draft principles relevant to the use of nuclear power sources in outer space, I shall confine my brief comments to the remaining agenda items taken up in the report of the Legal Subcommittee.

(Ms. Dapul, Philippines)

As we stressed previously, the Philippines deems essential the elaboration of legal principles and norms to ensure that all countries have access to and benefit from outer space activities. Our firm adherence to this view motivated my delegation, together with eight like-minded countries, to sponsor the principles regarding international cooperation in the exploration and utilization of outer space for peaceful purposes . These principles are contained in document A/AC.105/C.2/L.182 of 9 April 1991. The other sponsors of this document have expounded on the nature and on the why's and wherefore's of the six main principles, which we believe are among the kernels of ideas that could constitute the legal framework for international cooperation in outer space. Indeed, many of these principles are not new, as they stem from the provisions of the Charter of the United Nations, and are culled from existing treaties and legal instruments as well as from General Assembly resolutions relating to the exploration and use of outer space. What we see as novel in this set of proposals is its focus and the way the draft principles are grouped together to give meaning to the principle of international cooperation envisaged in article 1 of the 1967 outer space Treaty.

We who come from the developing world have always been candid about our desire to set up mechanisms, both legal and institutional, to redress existing inequalities between the technologically advanced, spacefaring nations and the technologically disadvantaged, developing non-spacefaring nations. Therefore, the elaboration of principles of international cooperation in space, particularly those that could potentially affect the Earth's environment, is one of the priority mechanisms that must be put in place not only to benefit the developing world, but also, more importantly, to maintain the peacefulness of outer space and to protect and preserve its environment. The Philippines

(Ms. Dapul, Philippines)

is convinced that nations and peoples that willingly come together, cooperate and share responsibility for outer space will have such a large stake in its peaceful exploration and use that they will work harder to ensure that its peacefulness is not disturbed by man's folly. Man is, hopefully, wise enough not to harm the proverbial goose that lays the golden egg.

The initial positive reactions to and constructive criticism of document A/AC.105/C.2/L.182 that we have heard so far are indeed valuable and welcome. Particularly useful are comments from delegations with major space capabilities, which constitute our "other partner" in this important undertaking of putting the legal mechanism in place, and ensuring in the process that the mechanism works. My delegation is hopeful that substantive work on this item can proceed during the next session of the Legal Subcommittee.

The other item of interest to us relates to the geostationary orbit. The Philippines has always held the view that since the geostationary orbit is a limited natural resource it must be used in a rational and equitable manner for the benefit of all mankind. Hence, the question of access to the geostationary orbit is of major importance to my delegation. The Philippines therefore welcomed the initiative of Colombia within the Group of 77 during the last session of the Legal Subcommittee in presenting the "non-paper" that is now before the Subcommittee. My delegation believes that the "non-paper" could be the basis for a discussion that could very well lead us to make some progress on this long-unsolved question. This is, of course, without prejudice to any other proposals or documents on the subject which have been or will be presented in the Legal Subcommittee.

What we perceive as essential for arriving at a satisfactory resolution of this issue is for delegations to display the political will to enshrine in

(Ms. Dapul, Philippines)

an appropriate legal framework the principle of the equitable access of all countries to the geostationary orbit. Indeed, political will is the commodity we shall be most in need of in the coming days.

Mr. TETU (Canada) (interpretation from French): Once again, we have been given the opportunity to review, under this agenda item, the progress achieved by the Legal Subcommittee on the important subjects that have been allocated to it.

Among these subjects, one is of particular importance to my delegation. It is clearly the question of the draft principles relating to the use of nuclear power sources in outer space. Despite 13 years of painstaking work, these draft principles have yet to be finalized. Unfortunately, no genuine progress was made this year during the meetings of the Legal Subcommittee, with the possible exception of the unanimous decision to delete draft principle 11, on relations with international treaties and agreements. Moreover, one delegation expressed misgivings about the key principle, namely, principle 3, on guidelines and criteria for safe use, which had been unanimously endorsed last year. Fortunately, they were not shared by any other delegations.

Canada therefore felt that it was essential to deal with the task of finalizing the draft principles, and joined with the delegation of Germany on 12 April 1991 in submitting document A/AC.105/C.2/L.154/Rev.9.

(Mr. Têtu, Canada)

That document takes into account most of the views expressed by interested delegations on the outstanding draft principles - 1 (a), 4, 8, 9 and 12. At this session of the Committee we have been able to discuss the text of that document with most of the interested delegations. But we have not yet reached agreement and have been unable to finalize the draft principles. On draft principles 8 and 9 at least one delegation objects to our wording. But we hope we can convince that delegation to change its position so we can reach consensus before the end of the session.

My delegation earnestly hopes we can agree on all the other outstanding draft principles. We invite all delegations to show flexibility and determination in order to complete this work by next year at the latest.

With regard to the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interest of all States, taking into particular account the needs of developing countries, we welcomed in our opening statement the submission of a working document by a number of delegations. This is now being considered by the relevant Canadian authorities.

My delegation continues to attach great importance to the work of the Legal Subcommittee. If in some respects the Subcommittee's work has been slow and arduous, particularly with respect to the draft principles relevant to the use of nuclear power sources in outer space, it is none the less essential for the protection of outer space not only for our generation but for generations to come.

Mr. NOREEN (Sweden): I shall limit myself at this stage to making a few comments on the part of the Legal Subcommittee's report dealing with the use of nuclear power sources in outer space.

It is my delegation's view - and I have heard similar views expressed by many others at this session - that very little progress was achieved on this agenda item at this year's session of the Legal Subcommittee. My delegation, of course, very much regrets that. At the same time we recognize that fruitful discussions took place on the subject during the session on the basis of working papers presented, primarily on draft principles 4, 8 and 9, by a number of delegations, including the delegation of Sweden. Even if no agreement could be reached on the contents of those working papers, we feel the general thrust of the papers enjoyed wide support in the Subcommittee, and we are grateful for that. We are particularly grateful that the idea of merging draft principles 2 and 4, of which my delegation has been in favour for some time, seems to enjoy wide support in the Subcommittee.

As many others have pointed out, the adoption of the draft set of principles on the use of nuclear power sources in outer space is long overdue. Therefore, we think it necessary that all possible efforts now be made to conclude the work on nuclear power sources at next year's session of the Committee.

We hope that, at this session, on the basis of the untiring efforts of the delegations of Canada and Germany, at least an informal understanding can be reached on some of the draft principles still outstanding.

I reiterate again my delegation's deep appreciation to the delegations of Canada and Germany for all the work they have carried out and continue to carry out on this question.

(Mr. Noreen, Sweden)

I should like to draw the Legal Subcommittee's attention to one paragraph in the report of the Scientific and Technical Subcommittee. I do that because it has clear implications for the work of the Legal Subcommittee and for the Committee itself. I am referring to paragraph 64, which reads as follows:

> "The Subcommittee recommended that the item [on nuclear power sources] be retained on its agenda for the next session. The Subcommittee further recommended that the question of reconvening the Working Group on the Use of Nuclear Power Sources in Outer Space be considered by the Committee at its next session" - in other words, now - "in the light of the work carried out by the Legal Subcommittee on the subject at its thirtieth session". (A/AC.105/483, para. 64)

I am not saying we need to come up with a clear-cut answer to this question at this session, but I am saying we need to address the question contained in that paragraph. We could, for example - and we have no views on this subject for the time being - defer to the Subcommittee itself the question of reconvening the Working Group. But there is a clear recommendation by the Subcommitttee that the Committee consider this question at this session.

On a somehwat lighter note, let me refer to the statement made yesterday by Ambassador Maiorski of the Soviet Union on the question of rotation between New York and Geneva, in which I think he implied that Geneva has the advantage of providing an environment more conducive to reaching agreement. If that is the case, my delegation would be in favour of moving all sessions of all three outer space bodies to Geneva as soon as possible. Perhaps then we could reach agreement on nuclear power sources by next year. By the way, I note that according to the schedule, the Legal Subcommittee is to meet next year in Geneva. Let us see if Ambassador Maiorski's hypothesis is correct.

The CHAIRMAN: The representative of Sweden has given us new food for thought, but of course any official invitation to meet in Geneva would have to come from the Government of Switzerland.

Mr. MARTADIWIRYA (Indonesia): My delegation wishes to comment on agenda item 8 on the report of the Legal Subcommittee on the work of its thirtieth session, and particularly on the issue of the geostationary orbit. I shall be brief.

After having heard various speakers on this issue, my delegation would like to emphasize that we have taken note of the working non-paper of some members of the Group of 77, initiated by Colombia.

(Mr. Martadiwirya, Indonesia)

During informal consulations we expressed the view that the "working non-paper" could serve as the initial basis for further discussion, and said that we would want to submit some amendments. At present, however, we consider that the existing "working non-paper" does not reflect the legitimate concerns of Indonesia as an equitorial State with the geographical feature of stretching along apprximately 12.8 per cent of the equator.

Therefore, while taking note of the "working non-paper", my delegation would request that our reservations with respect to the "working non-paper" be put on record by the Committee at this session, pending further discussion of the issue at the next session of the Legal Subcommittee.

Ms. COURTNEY (Australia): At the outset, Sir, my delegation would like to convey through you our thanks to Mr. Mikulka of Czechoslovakia for the excellent manner in which he conducted the work of the Legal Subcommittee.

In its statement in the general exchange of views, the delegation of Austria referred to a statement by Jenks in his treatise of international space law in which he said that current space Powers tend to think of themselves too exclusively in those terms, rather than in a longer-term way, and that some non-space users may tend to think of themselves as potential victims rather than potential users of outer space. Since that treatise was written, some 20 years ago, a number of developments have, of course, taken place. Nevertheless, it seems to be the case that parallel visions of the peaceful uses of outer space continue to be presented. This is particularly apparent in the Legal Subcommittee of the Committee on the Peaceful Uses of Outer Space. The consequence of that parallelism is a tendency towards unilateralism on behalf of a set or group of States concerned: what might be descibed as the Frank Sinatra syndrome on space applications - I do it my way.

(Ms. Courtney, Australia)

The problem with that approach is that no matter what our short-term objectives may be - unless we want to have as many comebacks in the Legal Subcommittee as Frank Sinatra has in his field - our long-term objectives will be served only if we recognize and act upon our mutual rather than our apparently disparate concerns. It is in that light that I make the following brief comments on the work of the Legal Subcommittee.

The first item I should like to address is the question of nuclear power sources. At this point I wish to pay a tribute in particular to the delegation of Canada, but also to those of Germany and others, for their efforts in promoting progress against rather difficult odds. Indeed, at times one is reminded of the myth of Sisyphus rolling the boulder up the hill only to have it return down the hill and having to start the task again.

Australia completely supports the comments on the reopening of old draft principles made by numerous delegations at the current session of the Committee, and particularly by Canada, to the effect that consensus texts should not be reopened pending agreement on outstanding principles.

We also sympathize with the disappointment expressed by countries that the agreement on nuclear power sources, so elusively almost in our grasp, should now threaten to disappear. Is this, perhaps, a case of unilateralism again threatening multilateralism?

The question of the geostationary orbit was reinvigorated this year by the submission of the constructive "working non-paper" prepared by a number of countries members of the Group of 77. My delegation listened with interest to the statement on that "non-paper" by the representative of Colombia yesterday, when he pointed out that a number of the principles contained in it derive from international law and as such are unobjectionable. My delegation welcomes the document as a contribution to our work.

(Ms. Courtney, Australia)

We should however like to raise briefly, in the context of the unilateralism we have just referred to, a question with respect to paragraphs 7 and 7.1 of those principles, which say

"'7. In practice, equity would be achieved through the establishment of a concrete, specific preference, which would consist in the following:

"'7.1. Where a developed country and a developing country have equal claims to access to the same orbital position, or where a country which has already had access and another country which has not yet had access have equal claims, preference shall be given to the developing country or to the country which has not yet had access'".

(A/AC.105/484, annex II, para. 12)

Australia is, of course, aware of the particular needs of developing countries and in our own way in outer space activities we attempt to assist and support those needs. We are not, however, sure that when the relevant conventions of the International Telecommunication Union (ITU) were negotiated and language agreed, the intention of the use of the concept of equity was to give preferential treatment as specifically defined in paragraph 7.1. At this point I should like to refer to the very interesting comments made by the representative of Czechoslovakia with respect to paragraph 7.1. I think this is something we could look at again in our work in the Legal Subcommittee next year.

We suspect that the concept of equity is far more complex than that, including such ideas as broader access for larger users and so forth. We make this point simply to suggest that a large number of points need to be discussed - again, next year.

(Ms. Courtney, Australia)

I should also like to support the proposal made by the representative of Czechoslovakia that the Committee direct the Legal Subcommittee to look at the question of non-functioning objects in the geostationary orbit - a proposal Australia has consistently supported.

The title of the new item, of course, incorporates the concept to which I have previously referred: the particular needs of developing countries. As I said before, recognition of those needs is essential, but it must be in the context of all uses of outer space, in an organic manner. I note that the working paper presented by Argentina, Brazil, Chile, Mexico, Nigeria, Pakistan, the Philippines, Uruguay and Venezuela (A/AC.105/C.2/L.182) states in part II of its annex that

> "All States should have access to the knowledge and applications derived from the exploration and use of outer space on an equitable, non-discriminatory and timely basis". (A/AC.105/484, annex IV B (p. 47))

In that context, are we again referring to the type of definition of "equitable" currently found in paragraph 7.1 of the "non-paper" on the geostationary orbit, or are we using a broader interpretation which relates to the concepts contained in the ITU conventions? Those are simply questions.

A number of aspects of this "non-paper" require further negotiation, but many of the principles contained in it deserve our support - for example: the cooperative aspects that ensure that the use of outer space is for peaceful purposes; the recognition of the need to pay attention to protection and preservation of the space environment - in which connection Australia is particularly concerned about the issue of space debris; and support for the role of the United Nations and the call for the strengthening of that role, including in areas of cooperation with developing countries.

(Ms. Courtney, Australia)

We shall return again to these issues at next year's session of the Legal Subcommittee.

To conclude, I should like to turn briefly to the issue of the venue of the Legal Subcommittee. My delegation was impressed by the extensive range and variety of arguments put foward in such an erudite way by the representative of the Soviet Union, Ambassador Maiorski. Unfortunately, most of them do not hold water for countries not part of the European continent. Our country prefers - and not for financial reasons really, but for practical reasons - to hold all outer space Committee meetings in one place. It is simply a question of continuity, which in the case of the Legal Subcommittee we lose every second year. Small delegations attend these meetings in many instances, and Governments are often either unwilling or unable to send them from New York to Geneva. Here I am afraid I have been preempted by my Swedish colleague. In fact, we are convinced that somewhere in New York City - perhaps in Harlem or in the Bronx - we can find a spirit of New York equally conducive to successful negotiations as that famous spirit of Geneva.

The CHAIRMAN: I am sure the representative of Australia will hear herself quoted in future statements.

Mr. ZAWELS (Argentina) (interpretation from Spanish): I wish first of all to reaffirm the importance my delegation attaches to the progressive development of an international legal order that adequately governs space activity taking into account the interests of all countries, and in particular the needs of developing countries. Similarly, I want to stress our conviction that that order must promote international cooperation, the development of research and the maintenance of the exploration and use of outer space for exclusively peaceful purposes.

(Mr. Zawels, Argentina)

The report of the Legal Subcommittee on the work of its thirtieth session reflects the fact that under the very effective chairmanship of Mr. Vaclav Mikulka the Subcommittee undertook intensive and positive work. This is reflected too in the activities of the various working groups, on which I should like now to make some comments.

(Mr. Zawels, Argentina)

On the Subcommittee's agenda item 3, "The elaboration of draft principles relevant to the use of nuclear power sources in outer space, with the aim of finalizing the draft set of principles", we hope the Subcommittee will be able to resume the pace it maintained two sessions ago. That would make it possible to reach agreement in the near future on the outstanding draft principles. In this context I join in hailing the delegations of Canada and Germany, among others, which spared no effort towards carrying out in a timely fashion this important work which will unquestionably be of benefit to all States.

With respect to item 4 on the Subcommittee's agenda, my delegation sees some progress. I can, without excessive optimism, say that this lays the ground for future development in the discussion, which I hope will be positive and valuable for us all.

We welcome the alternative approach suggested by the Soviet Union delegation to hold an exchange of views on the international legal aspects related to the future functioning of aerospace systems. In that regard, we note yesterday's announcement by the representative of the Soviet Union that his country could provide detailed explanations on the scope of that proposal. That would certainly enable us to make progress on a more solid basis.

There has also been significant progress on the question of the geostationary orbit. For the first time we have a proposal - that of Colombia - which sets aside areas of conflict and focuses on an area of shared interest to all developing countries and whose basis is one on which we can all agree.

(Mr. Zawels, Argentina)

Yesterday we heard a very interesting statement by the representative of Colombia which clarified many aspects of the proposal and highlighted the complexity of the subject and the need without delay to begin a serious and constructive debate. In this connection, my delegation shares the interest expressed today by the representatives of Czechoslovakia and Australia in the question of the use of the geostationary orbit when the useful life of satellites in the orbit is over.

The Working Group on item 5, ably chaired by Mr. Gonzalez of Chile, made progress, unexpected by some, in its first substantive session. We have before us a paper setting out draft principles on international cooperation in the exploration and utilization of outer space for peaceful purposes. Those draft principles were carefully formulated and take into account not only the position of developing countries, in keeping with our mandate, but also the position of developed countries, natural allies for cooperation in outer space. My delegation hopes that at its next session the Subcommittee will make progress on this item through a constructive and valuable debate.

As on previous occasions, we wish to say that the Subcommittee should consider the question of space law as a new agenda item. Without setting aside other alternatives for tackling the question from the legal point of view, we feel that it would be appropriate to establish norms stating the scope and content of article IX of the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.

Mr. VALENCIA (Ecuador) (interpretation from Spanish): I wish first to thank the Legal Subcommittee and its Chairman, Mr. Vaclav Mikulka, as well as the Chairmen of the Subcommittee's Working Groups, Mr. Hans Winkler, Mr. Estanislao Zawels and Mr. Raimundo Gonzalez. My delegation takes note of the interest with which the Chairmen of the Subcommitee and its Working Groups tackled the items allocated to them and with which they strove to reach consensus among delegations.

My delegation addressed this item during the general exchange of views, and I want now to share some additional thoughts on the definition and delimitation of outer space and on the character and utilization of the geostationary orbit.

On the delimitation of outer space, Ecuador continues to consider that the international community should reach agreement. As in all cases where there are difficulties in formulating international legislation owing to the lack of a legal underpinning, there is always the risk that norms will be adopted unilaterally and that conflicts will arise. The issue of delimitation has long stagnated with respect to objective of legislation: establishing a boundary between airspace and outer space as tangible realities. We think it appropriate for the Subcommittee to revitalize its work on this item based on an approach dealing with objects such as spacecraft whose activities could have legal consequences. We think the new approach proposed by the Soviet Union is an interesting one; we hope to see the document the Soviet Union has promised soon so that we can comment fully on its contents.

(Mr. Valencia, Ecuador)

Members know that my country attaches particular importance to the item on the character and utilization of the geostationary orbit. As we did in the general exchange of views, my delegation wants to reaffirm Ecuador's position as stated during the twenty-third session of the Subcommittee and as reflected in document A/AC.105/C.2/L.147.

(Mr. Valencia, Ecuador)

As the representative of Colombia said yesterday when he introduced the document being submitted by his country and other members of the Group of 77, this is not not an initiative of the equatorial countries. Ecuador has reservations with regard to some parts of the text. However, since it is an initiative that may well clear up other problems that are of importance to developing countries and others, my delegations feels that it could be an interesting basis for negotiations.

Finally, I should like to say that our delegation is very interested in the suggestion made this morning by the delegation of Czechoslovakia regarding the possibility of the Legal Subcommittee's discussing objects without useful life in geostationary orbit. We feel that that subject falls within the purview of the rational use of that orbit and that it could therefore properly be discussed in the Legal Subcommittee.

Ms. VAJIC (Yugoslavia): I should like to comment briefly on some of the matters in the report of the Legal Subcommittee. As we said in our opening statement, and without wanting to enter into a discussion on the principles governing nuclear power sources at this late stage, we think it worthwhile to emphasize the urgency and need for the adoption of the draft principles. A set of legal principles on the matter would certainly be of benefit to the whole of the international community, and we look forward to achieving a consensus in that respect as soon as possible.

In addition, although my delegation stated its views on other items in its opening statement, we would like to make a few comments on the issue of the geostationary orbit. We welcome the non-paper on the geostationary orbit prepared by Colombia, and we are of the opinion that an initiative to establish a special status or regime for the geostationary orbit is worth supporting. However, we cannot support any claims that the orbit is not part

(Ms. Vajic, Yugoslavia)

of outer space. Bearing in mind the dual planning method devised in 1985 and adopted in 1988 by the International Telecommunication Union (ITU), we are of the opinion that at this juncture the Committee should decide to begin discussions on an international legal regime for the geostationary orbit that would ensure that the equitable-access concept would guide the use of the geostationary orbit.

The basic idea of the freedom of outer space regime, which must include the competing and equal rights of all States in the use of outer space, has lost its original force with time and has become an order favouring the space-faring States, while the developing States have for the most part been unable to exercise their rights. The actual inequality thus becomes even more marked, and the majority of countries are prevented from benefiting from equal participation in the freedom regime, in the present as well as, we fear, in the future. At the same time the situation is characterized by another process at work in today's international community, namely, the fact that scientific and technical progress emphasizes the interdependence of all States, creates new links of solidarity and requires their close cooperation. Thus, the possibility of equitable access to the geostationary orbit should in practice be elaborated on the basis of the provisions contained in the ITU documents, taking into account different criteria, among which are, inter alia, the need to avoid effects detrimental to the optimum utilization of the geostationary orbit by all States and the need for positions and frequencies to be assigned to all States in an equitable manner.

In addition, the extent to which respective States, in accordance with the ITU regulations, are already participating in using portions of the geostationary orbit and frequencies should be considered. Possible conflicts

(Ms. Vajic, Yugoslavia)

should be resolved on the basis of equity and in the light of all the relevant circumstances, taking into account the respective importance of the interests involved to the parties as well as to the international community as a whole. In our view, identifying appropriate forms of cooperation in the use of the geostationary orbit is a matter closely linked to the question of the exploration and utilization of outer space being carried out for the benefit and in the interests of all States, taking into account the needs of developing countries.

We would be very pleased if the Committee would use this opportunity to begin deliberations on problems linked to the use of the geostationary orbit. In our opinion, cooperation in the use of the geostationary orbit can and should be mutually beneficial to both space-faring and developing countries, as we believe to be the intent and spirit of article 1 of the 1967 Treaty, which provides that the exploration and use of outer space shall be carried out for the benefit and in the interests of all countries.

Although we are aware of the fact that the present momentum in the international community is not really too favourable to ideas of this kind, as is clearly shown by existing examples establishing special regimes for different areas in international law, we are nevertheless of the opinion that efforts should be begun to consider the elaboration of an adequate international mechanism that would ensure that the geostationary orbit is used with due account being taken of its status as a limited natural resource as well as of the reasonable interests of all States, in particular the developing countries.

Nowadays, when the climate of international relations between East and West has improved so much, we are witnessing a shift to a North-South

(Ms. Vajic, Yugoslavia)

polarization, and that necessitates an enhanced dialogue between developed and developing countries. We are therefore of the opinion that we should pursue with renewed energy initiatives such as the one offered in the case of the geostationary orbit.

Mr. MAIORSKI (Union of Soviet Socialist Republics) (interpretation from Russian): I apologize for asking to speak for a second time today, but since I must leave the session before it concludes I should like, in the interests of clarity, to react to parts of the statement of the representative of Canada.

If I understood him correctly, he said that active work is under way on draft principles 8 and 9 concerning the use of nuclear power sources in outer space and that those principles might be adopted by consensus at this session, the only obstacle being the position of one delegation.

(Mr. Maiorski, USSR)

I do not know which delegation the representative of Canada had in mind, but, as far as the Soviet delegation is concerned, our position was set forth in our main statement. We hold in high esteem the efforts undertaken by the Canadian and German delegations at this session, and we participated in the consultations they held - although not, I must say, under the best conditions. However we believe that serious documents on such a complicated and difficult issue should be adopted by the Committee after they have been considered and approved by the Legal Subcommittee. If representatives state that such documents have been considered or approved by the Legal Subcommittee, then the question arises: why have they not been finally adopted by the Legal Subcommittee?

We think that on this issue each body should fulfil its proper function. It would be difficult for us to agree to a consensus text at this session which is the result of such impromptu consultations, in which representatives must go back and forth between delegations in an attempt to arrive at the lowest possible denominator. We welcome the efforts of the Canadian and German delegations and are very interested in the working document they are submitting, but we think that it should be first considered and adopted by the Legal Subcommittee. We would very much like to see the working document, if it reflects the overall opinion of most delegations, considered by the Legal Subcommittee at the beginning of its next session, before it comes up with another version - which it has done in the past. If not, the work done in preparing this working document will have been in vain, for we would then have to request new instructions and review our position again.

Having said that, I should like again to express our deep gratitude and high respect for the work that has been done by the Canadian and German delegations at this session.

(Mr. Maiorski, USSR)

I should also like to comment briefly on what was said by the representative of Australia. I am afraid that even if we invited Frank Sinatra himself to act as honorary consultant - and that would require additional funds, for that gentleman will certainly not agree to work for nothing - we would not be able to find a place in New York where the spirit of Geneva prevailed. However, that is not the point. If the representative of Australia could promise that she will not be ending her term in New York, as she anticipates doing, but will extend her term for another year, then we would really have a very strong motive for holding all the sessions of the Subcommittee there.

Mr. BOYER (France) (interpretation from French): I shall be very brief. I only wish to indicate to this gathering the presence among us of a highly disturbing element in the person of the representative of Australia. As a matter of fact, I have been aware for some time that the moment he lays eyes on her a young member of my own delegation is prone to forget completely the higher interests of the French Republic and the work with which I have entrusted him. Now I find that the representative of a powerful nation traditionally favourable to Geneva has gone over bag and baggage to the New York camp. I cannot allow such an event to go unnoticed. I should simply like to note that although I have not had much to say about the comfort of delegations, I believe that the problem has been reasonably solved by sharing the sessions between New York and Geneva. One year, some will be comfortable and some not, and vice versa the next.

The meeting rose at 12.45 p.m.

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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

VERBATIM RECORD OF THE THREE HUNDRED AND SIXTY-SECOND MEETING

Held at Graz, Austria,
on Tuesday, 4 June 1991, at 3.30 p.m.

Chairman: Mr. HOHENFELLNER (Austria)

- Report of the Legal Subcommittee on the work of its thirtieth session (continued)
- Organization of work

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Any corrections to the records of the meetings of this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

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The meeting was called to order at 3.45 p.m.

REPORT OF THE LEGAL SUBCOMMITTEE ON THE WORK OF ITS THIRTIETH SESSION (A/AC.105/484) (continued)

Mr. ABDEL MONEIN (Egypt) (interpretation from Arabic): Our position regarding the activities of the Legal Subcommittee is based on the two following considerations. First, we are working together to draw up a single, comprehensive and universally applicable legal order on outer space. Secondly, to that end the majority of the international community must adopt a position staunchly opposed to prescription or maintaining the status quo in outer space.

Thus, the fundamental question concerning the activities of the Legal Subcommittee is not the venue or date of its session but the real need to perform work that is balanced between the speedy elaboration of the required legal formulas, on the one hand, and the need for these legal formulas to be truly comprehensive and universally applicable, on the other.

(Mr. Abdel Monein, Egypt)

By balance in its work, we mean that the Subcommittee should achieve steady progress on the three items before it. We are not of the view that some items should take priority over others, because the integral legal concept makes it incumbent upon us to consider these three items from a single perspective, particularly since all three taken as a whole reflect the international public interest that should be the basis for the legal framework the Subcommittee is called upon to elaborate.

In the light of the foregoing, we should like to comment on the work of the Legal Subcommittee at its last session and on the three items it considered.

As to the item on the use of nuclear power sources in outer space, my delegation stresses the importance of coordination and cooperation between the Legal Subcommittee and the Scientific and Technical Subcommittee, so that on this matter the two bodies can interrelate. To put it in more specific terms, we endorse the German proposal that this cooperation be achieved through informal meetings with a view to reaching common understanding on the principles to be agreed upon. We have studied the working papers submitted by other delegations on this item, particularly those related to principles 2, 4 and 8. We welcome the efforts exerted and the constructive spirit shown by those delegations. We believe that this is a reflection of a political will which, we hope, the same delegations will exercise with regard to the other items on the Subcommittee's agenda.

While there has been progress on some aspects, particularly the definition of the term "launching State", further efforts are needed on aspects relating to international responsibility. As to principle 3, we should take into account the nature of nuclear damage, for the establishment of a given legal principle should not rest on the number of occurrences but,

(Mr. Abdel Monein, Egypt)

rather, on the occurrence of a specific incident. There are other detailed points in these working papers that the Egyptian delegation will take up with the delegations concerned during the forthcoming session of the Legal Subcommittee. It is vital for the developing countries to participate more concretely, particularly during this critical stage of the elaboration of draft principles relevant to the use of nuclear power sources in outer space.

Regarding the second item, matters relating to the definition and delimitation of outer space, my delegation would like to stress the importance of reaching a binding legal agreement on the subject for the following reasons. First, the non-delimitation of outer space was acceptable in the past, when outer space technology was in the initial stage and scientific data relating to this technology were not sufficient to forecast the range needed for the launch, the return and the orbiting of satellites without violating the territorial integrity of a given State. Things are now clearer, as the minimum altitude of satellite orbits has been defined and largely identified. Accordingly, from the technological point of view, there is no need to continue with the non-delimitation of outer space, particularly if in planning ahead for the future space-faring countries are given the right to innocent passage in airspace or in neutral zones between airspace and outer space. Secondly, the non-delimitation of outer space was acceptable in the past when the space-faring countries were few in number, which is possibly why no problems have thus far arisen. However, in the light of the increasing number of such countries - at present or in future - the possibility of encountering problems has become quite real. That is why the delimitation of outer space has become an urgent necessity.

(Mr. Abdel Monein, Egypt)

Taking into account those two considerations, we believe that it is essential for the Legal Subcommittee at its forthcoming session to elaborate a set of criteria on the definition and delimitation of outer space, with a view to reaching agreement. We also support the initiative on the geostationary orbit taken by some members of the Group of 77. The seven points contained in their working paper, as referred to in the Subcommittee's report, could be developed into an integral working paper to be submitted to the Legal Subcommittee at its forthcoming session as a basis for its work in this area. While we understand the questions raised with regard to the application of paragraph 7.1, we are confident that the Legal Subcommittee is capable of reaching an interpretation or a formula for the application of this paragraph, as well as others.

As regards the third item on the Subcommittee's agenda, "Consideration of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries", my delegation notes that, had the international community remained divided, the interpretation of the phrase "for the benefit and in the interests of all States" could have remained hostage to the same concepts and scope that governed the debate on this item in past years.

(Mr. Abdel Monein, Egypt)

However, after the recent developments in international relations - which, we hope, bode well for the achievement of a new legal international order by the world community - this Committee could well be instrumental in this process.

No one can deny the leading role played by the United States and the Soviet Union in the exploration and utilization of outer space, or the important role now being played by the space-faring countries. However, the major changes in international and regional relations mean that the time has come for collective action in outer space in order to achieve the strategic and economic interests of the world as a whole. Egypt believes that the only way to fulfil the mandate entrusted to us by the General Assembly in its resolution 45/72 - to continue its consideration of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries - is to reconsider the possibility of establishing an international outer space agency reflecting the interests of all countries; we could also re-examine the possibility of establishing an international satellite monitoring agency. Thus we could achieve the goal to which we aspire.

In referring to the old and to the new approaches, the delegation of Egypt is well aware of the difficulty of the question at hand. The features of the new international legal order have begun to emerge, and it is our duty to strengthen that order, rather than to obstruct it. For all these reasons, Egypt is ready to join the seven developing countries that submitted the working paper containing principles regarding international cooperation in the exploration and utilization of outer space for peaceful purposes, which is mentioned in an annex to the report of the Legal Subcommittee. We hope that

(Mr. Abdel Monein, Egypt)

this working paper will receive equal attention from all members of the Committee during its next session.

Those are the comments we wished to make on the three items considered by the Legal Subcommittee. As it does not seem to us that the Subcommittee's report contains specific procedural recommendations, we deem it necessary to entrust to the Subcommittee the continued examination of these three items during its next session in the light of the constructive statements made by various delegations. Moreover, we would recommend that efforts to reach consensus be intensified. In conclusion, we request that the foregoing points be reflected in the Committee's report on its current session.

The CHAIRMAN: I now call on the representative of the International Atomic Energy Agency.

Mr. GONZALEZ (International Atomic Energy Agency (IAEA)): My name is Abel Gonzalez, and I am Deputy Director of Nuclear Safety at the International Atomic Energy Agency. My statement, on behalf of the Agency, relates to the guidelines and criteria for the safe use of nuclear power sources in outer space. In my personal capacity, I am a member of the International Commission on Radiological Protection (ICRP), the non-governmental professional organization to which the guidelines and criteria refer. I shall be prepared, therefore, to answer any question the Committee may have on both the IAEA statement and the technical matter under consideration.

At the outset I should like to thank the Committee for giving the Agency this opportunity to clarify its position on technical aspects of the formulation of guidelines and criteria for the safe use of nuclear power sources in outer space.

(Mr. Gonzalez, IAEA)

It was unfortunate that IAEA was unable to arrange early and direct expert representation in the Scientific and Technical Subcommittee in which these matters were discussed, owing to the extreme budgetary restrictions that have been applied to the Agency and to the fact that the subject of concern is not specifically covered in the Agency's regular programme. The IAEA representative in New York, however, did deliver a written statement at the meeting of the Scientific and Technical Subcommittee in February 1991 that dealt with the Agency's major concern in relation to the technical formulation of principle 3 of the guidelines and criteria. Although some representatives in the Subcommittee considered that it would be unfortunate to have to reopen debate on this issue, and some expressed regret that the topic was being raised at the last minute, we felt that many understood that the Agency's ultimate intention is to help the Committee in the formulation of technically accurate principles in order to facilitate their application in practice. Let me be very clear on this point: it was not, and is not, the intention of the Agency further to modify per se a text previously agreed by consensus, and the Agency would very much regret that its intention to help might have slowed what had seemed to be rapid progress towards the conclusion of the long-debated principles on nuclear power sources.

(Mr. Gonzalez, IAEA)

IAEA understands that many representatives would not wish now to reopen the issue of the technical formulation of principle 3 on the grounds that the current formulation addresses the core of the catalogue the Committee considered and that further improvements might jeopardize the very existence of the catalogue. It would, of course, be highly undesirable not to have a catalogue for the safe use of nuclear power sources in outer space. Let me clearly state that IAEA believes that it is essential to retain the basis of the catalogue even if its present formulation is not optimal from a technical point of view.

With this in mind, Agency representatives attended informal consultations in the Legal Subcommittee of the outer space Committee on 8 April 1991. They indicated at that time that a basic problem was the implication in principle 3 as it stands that the latest international recommendations were being followed. As was correctly stated yesterday by the representative of Canada, some misunderstandings were resolved during this informal gathering. However, it seems that other misunderstandings may have persisted, and should be clarified.

The Committee should not get the impression that the Agency's initial statement in the Scientific and Technical Subcommittee was based on misunderstandings by IAEA on the consensus text. IAEA did not misunderstand the text of the principles, and certainly wishes to confirm that the wording of this text could be substantially improved. The Agency recognized, however, that the present text, as the representative of Canada correctly indicated, has certainly been the result of many compromises along the way. Although these compromises have not undermined the basis of the catalogue referred to earlier, they should not jeopardize any search for a more accurate formulation of the principles in the near future.

(Mr. Gonzalez, IAEA)

I should like therefore to request that the Committee take note of the Agency's views in order to be able to take them into account in a possible future revision of the principles. With your permission, Mr. Chairman, I should like to reiterate those views here.

First, the formulation of principle 3 refers to the recommendations of ICRP. These recommendations were issued in 1976, and have recently been revised. Following the issuing of the 1976 recommendations, several clarifying statements were issued by ICRP and, as a follow-up, international Basic Safety Standards for Radiation Protection were established by IAEA jointly with the International Labour Organisation (ILO), the World Health Organization (WHO) and the Nuclear Energy Agency of the Organization for Economic Cooperation and Development (OECD). The technical wording of principle 3 is not fully consistent with the spirit and wording either of the ICRP recommendations or of the international Basic Safety Standards.

Secondly, as has already been mentioned, ICRP approved new recommendations at the end of 1990. These new recommendations have been issued recently - I have them here in my hand and some extra copies are available through the secretariat. Unfortunately, they were published after the preparation of the principle under discussion. An international secretariat has been formed to review the Basic Safety Standards for Radiation Protection in the light of the new ICRP recommendations. It comprises the United Nations Food and Agriculture Organization, the International Labour Organisation, the Nuclear Energy Agency of OECD, the Pan American Health Organization, the World Health Organization and IAEA. The joint secretariat has already started the process of revision of the Standards, which is expected to be completed next year. It might seem imprudent therefore to issue guidelines and criteria for the safe use of nuclear power sources in

(Mr. Gonzalez, IAEA)

outer space that could be considered technically outdated from their inception, unless a specific provision is made that they should be reviewed within a relatively short time.

Thirdly, the new ICRP recommendations clearly differentiate between the principles of protection for proposed and continuing practices and those for interventions. In the language of ICRP, "practices" are human activities that increase the overall exposure to radiation by, for example, introducing new radiation sources. The introduction of new nuclear power sources in outer space could be viewed as a practice in ICRP terminology. ICRP recognizes several types of exposure conditions in relation to practices, such as public exposure in "normal" operations and potential exposures. Potential exposures are those that may occur not as foreseen but as a result of accidental departures from the planned operating procedures. For normal exposure, the full ICRP system of dose limitation should be applied, including source-related dose constraints rather than individual-related dose limits, the dose constraints being a fraction of the dose limits. For unlikely potential exposure, the objectives are the reduction of the probability of the sequences of events that may cause or increase radiation exposure, and the limitation and reduction of exposures if any of these sequences do occur.

Interventions, on the other hand, are, in ICRP language, activities intended to reduce existing de facto exposure of people, for example by removing existing sources, modifying pathways of exposure or reducing the number of exposed individuals. The situations in which these remedial actions may be needed include post-accident contamination such as can arise if an accident occurs in such a nuclear power source. The main aims of radiation protection in interventions are the justification of each remedial action and the optimization of the protective measures.

(Mr. Gonzalez, IAEA)

These distinctions - distinctions between practices and intervention, between normal and potential exposures, between dose constraints and dose limits - are conceptually important, and should be preserved in the formulation of guidelines and criteria for the safe use of nuclear power sources in outer space.

In summary, the Agency, if requested to do so by the Committee, would provide its expert services for revising principle 3 coherently and consistently with the ICRP principles and international standards, in general, and with the new ICRP recommendations, in particular. This can be done at any time the Committee may decide to undertake such a revision, for instance after the Committee adopts the present text.

The CHAIRMAN: I should like to request the representative of IAEA to stay with us, as several delegations would like to ask him questions. I shall continue to call on speakers inscribed on the list so that they may have the possibility of doing so. I trust that Mr. Gonzalez will be available if other members wish to intervene or raise questions at the end of the meeting. As he is nodding affirmatively, I should like to thank him for cooperating with the Committee.

Mr. POCAR (Italy): The Italian delegation wishes to make a few comments on agenda item 8, concerning the report of the Legal Subcommittee.

With regard to the main issue the Subcommittee has before it for consideration - the drafting of a set of principles on the use of nuclear power sources - consensus was reached last year on principle 3, but no final agreement on new principles was reached in the Subcommittee this year. However, the Italian delegation still thinks that it is possible to feel optimistic about the future work on this topic and about the completion of a set of principles. During the session of the Subcommittee, there was considerable progress in the work on the remaining principles.

Constructive discussions took place and proposals were put forward with the active participation of many delegations. I would mention in this regard the working paper on principles 8 and 9 submitted by various delegations, including the Italian, with a view to achieving consensus on the very important issues of responsibility, and liability and compensation. We very much hope that, owing also to the activity of the delegations of Canada and Germany, a consensus on principles 8 and 9 may now be at hand. We also look forward to the adoption of the remaining principles, since we regard the set of principles as an extremely important contribution to the safe use of outer space. We are therefore fully confident that any further problem emerging in this field will quickly find an appropriate solution. The Italian delegation will certainly cooperate actively to this end. In this context, I shall postpone putting my questions to the representative of the International Atomic Energy Agency until later.

I turn now to the new agenda item before the Legal Subcommittee, concerning legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the

(Mr. Pocar, Italy)

benefit and in the interests of all States, taking into particular account the needs of developing countries. I should first like to recall that Italy is bound by a large number of multilateral agreements that have proved to be of fundamental importance for the purposes of international cooperation in the exploration and exploitation of outer space for the benefit of all countries, including developing countries, and that have been incorporated in Italian legislation, thus becoming binding. Moreover, in 1988 Italy reorganized its space-related activities into the Italian Space Agency, a central body competent to act in all matters related to space research and management. In our view, this entity will considerably increase Italy's role and participation in outer space research and in the sharing among all countries of all benefits. Italy will also create new opportunities for associating developing countries with new initiatives within the framework of multilateral and bilateral cooperation.

In that context, the Italian delegation attaches great importance to the new item on the Legal Subcommittee's agenda, and will give all the necessary consideration to proposals submitted by other delegations with a view to enhancing the implementation of the principle contained in article I of the outer space Treaty of 1967.

Mr. DUMITRIU (Romania): In approaching the legal aspects of the uses of outer space, my delegation's position is based on the necessity to seek solutions that should encourage broad international cooperation on an equitable basis, which could ensure the access of all States to space technology and its applications.

In this spirit, we should like to make a few remarks on some of the issues considered by the Legal Subcommittee.

(Mr. Dumitriu, Romania)

On the question of the delimitation of outer space, we share the view of other delegations that deem it premature to attempt to establish in a legal instrument a certain limit between airspace and outer space. At the present time we are not in a position to know of all the consequences that such a decision could entail. At the same time, we have to take into account the fact that matters relating to the definition of outer space have been discussed for more than 10 years and there is still no foreseeable chance of even starting negotiations on a working paper. Moreover, it seems that the lack of an exact delimitation has not created any practical problems for States. We would therefore support the idea of removing this item from the agenda for a certain period of time, until all technical and scientific aspects are clarified and all the implications for small and medium-sized countries are known. Thus, we shall be able to start productive and efficient discussions at the right time.

The subject of the geostationary orbit has also been included for many years on the agenda of our two Subcommittees. We are now seeing promising signs of progress. The question is very important and might be considered by the Legal Subcommittee if it avoided those aspects on which we could not agree at any given time. If that were done, a legal instrument could be concluded containing the elements on which consensus had already been reached and stipulating the equitable access of all States to the geostationary orbit. Such a pragmatic way of tackling a difficult question is not without precedent; in this respect we would cite the example of the International Telecommunication Satellite Organization (INTELSAT), which began its activity on the basis of a provisional statute.

Mr. SATOH (Japan) (interpretation from Spanish): My delegation would like to express its satisfaction at the work done by the Legal Subcommittee this year. It is true that the Subcommittee did not achieve any concrete results this year, but we believe that its work should be viewed as a long negotiating process and that our discussions there this year were fruitful and have the potential for achieving positive results in future sessions. In this respect, my delegation would like to thank the Subcommittee's Chairman, Mr. Vaclac Mikulka, and the three Chairmen of the Working Groups, Mr. Hans Winkler, Mr. Estanislao Zawels and Mr. Raimundo Gonzalez, for their dedication and hard work in presiding over their respective Working Groups this year.

(Mr. Satoh, Japan)

My delegation notes with satisfaction that our discussions on nuclear power sources have made slow but sure progress year after year. That is why my delegation would like to thank those delegations - particularly those of Canada and Germany - that have animated our discussions. We hope that, through informal negotiations currently under way, we can reach substantive agreement on principles 8 and 9 and make progress on principles 1A and 4 during this session of the Committee.

As regards principle 3, though the Japanese authorities are conducting serious studies on the working papers submitted by the delegation of the United States and has not yet reached a conclusion on them, my delegation would none the less like to make the following observations.

We believe that our deliberations on this matter are aimed at producing as soon as possible legal principles that will ensure safety and confidence in the use of nuclear power sources, and provide functional legal principles with a sound scientific and technical basis that are respected by all countries, particularly the users of nuclear power sources.

In this respect, and from the desirability of a prompt conclusion of our deliberations, my delegation very much regrets that the United States has put forward a proposed amendment after we had reached consensus on the text of principle 3. Moreover, from the standpoint of the general acceptability and functionality of the principles, we also regret that there was a rush to conclude our deliberations on these principles when we knew that one of the main users was not prepared to respect them.

My delegation considers legitimate the concerns expressed by other delegations that the discussions on principle 3 should not be reopened or that amendments to principles already agreed were submitted after consensus had

(Mr. Satoh, Japan)

been reached on all principles or in the context of principle 12, and so on. Having said that, my delegation believes, without prejudice to positions in the legal field, that it would be useful to hear the scientific and technical grounds on which the delegation of the United States submitted its amendments to principle 3, since that delegation submitted its working papers on the matter at the last moment of our deliberations in the respective Subcommittees and has yet to provide a detailed explanation of its position.

My delegation therefore believes that it would be desirable for the Committee to invite the delegation of the United States and the representatives of the International Atomic Energy Agency to provide detailed explanations for their proposed amendments at the next meeting of the Scientific and Technical Subcommittee, during which the question of nuclear power sources will be addressed and where experts from many countries will be in attendance. We hope that their scientific and technical expertise will help us to find a solution to the difficult situation in which we find ourselves. We also hope that it will be possible for us to reach consensus on a complete set of principles and to express our appreciation to those delegations that put so much hard work and patience into those principles.

My delegation notes a certain progress on the question of the delimitation of outer space and the geostationary orbit. As the position of my delegation and that of others is well known, I will restrict myself to two comments.

First, my delegation appreciates the enthusiasm with which the delegation of the Soviet Union is attempting to begin deliberations on aerospace systems. Although we are not convinced that deliberations on such systems will contribute to progress on discussions on the delimitation of outer space, we are none the less prepared to exchange views on any working paper that may

(Mr. Satoh, Japan)

be submitted. My delegation would also like to welcome the fact that some equatorial countries have expressed their intention to cease their claims to a preferential regime with regard to the geostationary orbit based on geographical location, which we believe will certainly contribute to our reaching an understanding on the matter.

My delegation is happy to see that, although this is the first year that the Working Group on the new item on spin-off benefits of space technology has met, it has none the less made some very significant and positive progress. We believe that the working paper submitted by Brazil and other delegations is an important document. It presents us with an excellent catalogue of the interests of many countries, particularly the developing countries. Though the paper, which has been very well prepared and is already in the form of a General Assembly resolution, provides a temptation to many delegations to approve it immediately, my delegation trusts in the goodwill of the paper's sponsors to try through extensive discussions to find compromise positions in the interests of other delegations.

In this regard, my delegation believes that, as is the case with all legal work, we should begin with an analysis of existing legal regimes and then seek to establish new principles in harmony with those regimes. In this respect, we would like to highlight the importance of the paper requested by the working paper of its Chairman, a paper that would present an analytical compilation of the views and information submitted by member States on their legal regimes and international agreements. We are confident that the Chairman of the Working Group, Mr. Raimundo Gonzalez, will provide us with an excellent report at the Subcommittee's next session.

(Mr. Satoh, Japan)

In this regard, my delegation believes that the value of the working paper submitted by Brazil and other delegations will be fully recognized when we have sufficient knowledge of existing legal regimes through our discussions based on the report to be submitted by the Chairman of the Working Group.

My delegation looks forward to the Subcommittee's continuing to operate efficiently and effectively. But in order to be efficient, the Subcommittee must do its work in an appropriate manner, in terms both of the organization and length of its sessions and of the appropriate venue.

Today, the United Nations, over and above its already very full agenda, faces many challenges it must address under a new international political situation, such as peace-keeping operations and activities related to the environment, drugs, human rights, and so forth. In view of the limited funds contributed by Member States, the United Nations is finding itself more than ever obliged to carry out its work more efficiently and economically. Our Subcommittee, as a dependent body of the United Nations, should seek a more objective procedure as regards its sessions, in conformity with the recommendations of the Advisory Committee on Administrative and Budgetary Questions, specifically that it meet each year in New York, at the Headquarters of the United Nations.

I should also like to draw the Committee's attention to a practical reason for this position. The work of this Committee and its two Subcommittees has traditionally been carried out by persons stationed at Permanent Missions in New York, where the Committee's secretariat is based, with the exception of those countries that send diplomats and experts from their capitals. When a session is held outside New York, it often happens that those involved cannot travel to attend it for economic or other reasons that prevent them leaving New York for a period of two or three consecutive

(Mr. Satoh, Japan)

weeks. This results in the absence of the representatives of some countries at the session - which, unfortunately, is the case at this session in Graz. This is also prejudicial to the continuity and the consistency of our debates in these sessions. Despite the fact that I very much enjoy spending a few quiet days in the City of Geneva every two years, for the reasons mentioned above my delegation firmly believes that the Legal Subcommittee's sessions should be held in New York every year.

Mr. MATUS (Chile) (interpretation from Spanish): As we said in our statement during the general debate, we understand that this Committee will have no difficulty adopting the report of the Legal Subcommittee. However, we would like to refer to a few elements of that report which, we believe, deserve special attention.

As regards the matter of nuclear power sources in outer space, we join with those delegations that have expressed their concern at the sudden stagnation of the work on that subject, particularly since we thought that it was going to be past history by the time the Subcommittee next met. In that respect we must express our surprise at the moment chosen to submit a proposed amendment to one of the principles already agreed. We would like to express our appreciation publicly to the delegations of Canada and Germany for their work on this topic, and we appeal to all countries to make an effort to be flexible so that progress can be made and that item can be completed.

On the matter of the geostationary orbit, we should like to highlight the working non-paper submitted by some delegations of the Group of 77 at the last meeting of the Legal Subcommittee. This document, so eloquently introduced yesterday by the representative of Colombia, has the great merit of introducing fresh elements into a debate that seemed to be sterile and going

(Mr. Matus, Chile)

nowhere. We support that document as a basis and point of departure for renewed discussions on the matter and we call on those who maintain inflexible and dated positions to give it serious consideration. We believe that it is indeed a serious, realistic and pragmatic contribution. The decision rests with those countries that insist on maintaining their radical positions.

Finally, we would like to draw attention to a paper submitted by a group of countries - Chile among them - contained in section B of Annex IV of document A/AC.105/484, the report of the Legal Subcommittee. That paper contains a set of principles regarding international cooperation in the exploration and utilization of outer space for peaceful purposes, taking into particular account the interests and legitimate aspirations of the developing countries.

As we said on an earlier occasion, the very concept of international cooperation is being redefined today. We believe that the old adage about "fish to the people" fits very nicely with the development of the concept of international cooperation. Indeed, some 30 years ago, international cooperation was understood as the aid and assistance that should be given by the industrialized world to the developing countries, the equivalent of making gifts of fish to the people. That concept than evolved into the idea that it is better to teach the people to fish than to supply them with fish. Today, the idea underlying the concept of international cooperation is that it is not enough to know how to fish, but that fishing must be carried out in such a way as to ensure that there is fish for all, future generations included.

The document to which we refer is imbued with this new concept of international cooperation, which includes equity between and down through the generations. We appeal to all countries to give it serious consideration at

(Mr. Matus, Chile)

the Legal Subcommittee's next session. We very much hope that the welcome given that paper by all delegations that have spoken before us will take definite shape next year. We also hope that serious positive work will be done on it and that it will result in consensus on a set of principles that will declare, in a balanced and equitable manner, the rights and obligations of developing and industrialized countries alike on this matter.

Mr. MURTHI (India): The Indian delegation considers that the progressive development of international law related to outer space is in itself a reflection of the continued commitment of the Member States to ensure that outer space is explored and utilized for peaceful purposes. It also represents the exercise of their common will to promote international cooperation in a manner consistent with their declaration that outer space is the common heritage of mankind. It does not imply the reversal of the fundamental legal basis that was drawn up several years ago and embodied in the outer space Treaty. The Member States in our Committee have maintained their collective agreement on this subject and, it is hoped, will continue to do so in future.

Progressive development also involves the extension and elaboration of those fundamental principles so as to guide such activities and uses that are or could be given practical effect, inter alia, as a result of progress in technology. However, progress in the elaboration of legal principles cannot lag too far behind progress in technological and other fields. Otherwise, the problems that might arise would become too complex to solve. We consider that the concerns expressed by several delegations for the early elaboration of legal principles relating to, inter alia, the use of nuclear power sources in outer space, the definition and delimitation of outer space, the use of the geostationary orbit, the question of ensuring that outer space is utilized for peaceful purposes for the benefit of all States, and so on are a reflection of the desire to ensure that international legal norms lead and guide the advances in technological applications, rather than be led and guided by them.

After a quick succession of developments in the field of space law following the conclusion of the 1967 outer space Treaty, the Legal Subcommittee has been deliberating for many years on several subjects without

(Mr. Murthi, India)

reaching consensus. As we reflect on this, our delegation cannot but share the views of the representative of the Soviet Union, who underscored the need for making speedier progress with greater political will and in a spirit of cooperation and compromise. This appeal is very timely, as we have been witnessing many favourable changes in international relations that are paving the way for new agreements. Is it not fitting to take this opportunity to solve outstanding problems speedily with greater will and in a spirit of compromise?

As we look at the work of the thirtieth session of the Legal Subcommittee, although no further agreement has been reached on any issues related to its agenda, we are happy to see some positive developments. A number of delegations sponsored and submitted a working paper on the most recently added agenda item, namely, consideration of legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries. We find that the working paper contains the practical expression and elaboration of the views shared by numerous delegations, particularly those of the developing countries, based on their urgent needs and experiences. India considers that the working paper forms a good basis for discussion on the agenda item with a view to exploring the possibility of further consensus. We appreciate the efforts of all delgations that have actively participated in drawing up this document. We are also satisfied to note the response and interest of several delegations to carry out further discussion based on it. My delegation is keen to participate in the discussion and interested in developing consensus on this subject.

(Mr. Murthi, India)

As to the question of the definition and delimitation of outer space, on many earlier occasions, my delegation has stressed the need to develop appropriate understanding. We still deem it necessary to consider this question well before the Subcommittee encounters problems concerning the application of existing legal provisions that would be inadequate for dealing with subsequent technological developments. India welcomes the Soviet initiative to explore all means for promoting appropriate international understanding on this question, and we pledge our keen attention and our willingness to work with other delegations in order to explore the possibility of reaching early consensus and understanding.

Regarding the question of the nature and utilization of the geostationary orbit, we note with interest the working non-paper submitted by a number of States Members of the Group of 77. India welcomes this initiative as a positive step towards exploring greater cohesion and constructive dialogue in the Working Group. We also believe that the document needs further elaboration and examination by delegations so that it can serve as a comprehensive basis for considering all aspects related to this question. India hopes that all delegations will give this effort further consideration.

Let me now turn to the subject of legal principles relevant to the use of nuclear power sources in outer space, which we had hoped would be agreed upon during the thirtieth session of the Subcommittee. Regarding the proposal for the revision of principle 3, which was agreed earlier, we have already expressed our views and do not wish to repeat them now. We urge that consideration be given to reaching agreement on the remaining principles. We particularly welcome the initiative and efforts of the delegations of Canada and Germany for their active work in exploring the ways to reach consensus on

(Mr. Murthi, India)

the remaining principles, and welcome the working paper that they submitted to the Legal Subcommittee (A/AC.105/L.154/Rev.9) which, we hope, will be a good basis for further discussion. India also notes the concerns expressed by some delegations about the proposal to merge the ideas in principles 2 and 4 relating to notification and safety assessment. While India is flexible about such a merger, it would like to ensure that the essential provisions of both principles are reflected adequately in the text.

We have listened with interest to the debate on the question of the venue for the sessions of the Legal Subcommittee. We consider that this issue, which consumed much time in recurring discussions in the Committee and the Legal Subcommittee, can be solved only through a greater spirit of compromise and cooperation. Our delegation would like the Committee to reach a consensus decision that would solve the problem once and for all so as to avoid repeated discussion. We join in the appeal of several other delegations to reach this understanding in the Committee.

As regards the proposals for a reduction in the duration of the sessions of the Legal Subcommittee, our delegation notes the need to make speedier progress and to provide adequate time for considering complex legal aspects. It therefore prefers to maintain the status quo.

Mr. RASHKOW (United States of America): I appreciate the opportunity to address the Committee under item 8 of the agenda, concerning the report of the Legal Subcommittee.

Allow me first to turn to the Subcommittee's work on the use of nuclear power sources in outer space. As a country with a large population and a vast land mass, the United States places the highest priority on the safe use of nuclear power sources in outer space by all countries. The enormous research and development conducted by the United States in this area clearly reflects its commitment.

The United States has from the outset fully supported the Committee's efforts to develop a set of principles that are balanced, place a high priority on safety and are realistic from a technical point of view. As the United States has urged throughout all of our deliberations on this important subject, the Subcommittee should endeavour to ensure that the highest scientific and technical standards are met in every one of the recommendations that it is developing.

As members know, the delegation of the United States has proposed certain clarifications and modifications in draft principle 3 in order to enhance the utility of the principles through improvements to their scientific and technical underpinnings. They are contained in document A/AC.105/C.2/L.178 of 9 April 1991. We have made these proposals because we take the Committee's work in this area seriously and because we believe the concerns we have identified are sufficiently important to require the proposed changes before the principles are submitted to the General Assembly.

My delegation is disappointed in the concerns that some delegations have expressed about our proposals. However, we are confident that all delegations

(Mr. Rashkow, United States)

will give our proposals full consideration and work constructively in shaping a final text that will meet the objective, which we all share, of promoting the safe use of nuclear power sources in outer space.

I also want to underscore the desire of my Government to work with other delegations in order to bring the negotiation of the full set of principles to a prompt and satisfactory conclusion. In this regard, we hope to reach agreement on other outstanding principles, in particular principles 8 and 9, on which, we understand, great progress has been made.

I now turn to the Subcommittee's new item entitled, "Consideration of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries". As members are all aware, this new item of business reflects a carefully balanced formulation, which was intended to lay the groundwork for a discussion over the next few years on the application of article I of the 1967 outer space Treaty. We wish to stress our concern that the timetable and programme of work for this new item, agreed upon by the Legal Subcommittee and endorsed by the forty-fourth session of the General Assembly, has not been fully adhered to. My delegation looks forward to progress on this new item in accordance with that programme of work, which we believe is the best course of action for yielding useful results.

In this regard, we reiterate our support for the Subcommittee's recommendation concerning the need for Member States that have not already done so to submit responses to the Secretary-General's requests for information on their national legal frameworks, as appropriate, relating to the application of the principle contained in article 1 of the 1967 outer space Treaty and for information regarding international agreements concluded

(Mr. Rashkow, United States)

by Member States, which are relevant to that principle. Certainly, a full response by Member States to the Secretary-General's requests for such information, and the views of other Governments on the information submitted in those responses can emphasize the sense of importance that most delegations have attached to this item and provide a sound basis for constructive results. In this regard, my delegation notes that the new item only provides for an exchange of views on this important matter; it does not provide a mandate for the negotiation of a new international legal framework.

I now turn to the remaining item on the Subcommittee's agenda, the definition and delimitation of outer space and the character and utilization of the geostationary orbit. My delegation would like briefly to restate its well-known views on this subject.

The absence of a definition or delimitation of outer space, as we are all aware, has not placed practical barriers in the way of the dramatic progress that has been made in the peaceful exploration and utilization of outer space over the last 30 years. The continued absence of such a definition or delimitation does not, to our knowledge, pose any obstacles to further dramatic progress for the foreseeable future. Quite to the contrary, as we have consistently emphasized throughout the discussion on this subject, premature attempts to establish such a definition or delimitation may in fact complicate, if not impede, further progress in the peaceful exploration and utilization of outer space.

As our delegation and others have stated on numerous occasions, further consideration of this matter will not be productive. We would urge the Committee to find some way to drop it from the agenda of the Legal Subcommittee or at least to put it to the side so that the time of the

(Mr. Rashkow, United States)

Subcommittee could be spent on matters that both address more concrete problems and are more likely to produce practical results.

Turning to the geostationary orbit itself, we share the view that it is an integral part of outer space. It is not subject to appropriation by claims of sovereignty, by means of use or occupation or by any other means. All States enjoy equitable access to its utilization. Moreover, questions relating to the utilization of the geostationary orbit are being addressed effectively in the International Telecommunication Union (ITU). The ITU is responsible for the rational, efficient and equitable use of the orbit; it does so on the basis of treaty arrangements. In our view, the development of a new legal regime is therefore unnecessary.

(Mr. Rashkow, United States)

My delegation notes that the matter of the venue for future sessions of the Legal Subcommittee has been raised and will be considered later in this session, at which time we will have more to say on the subject. My delegation and others have in past sessions expressed concern over this matter and the constant underutilization of conference resources by the Legal Subcommittee, and have offered concrete proposals. While we support the decisions taken by the Legal Subcommittee regarding the organization of its work, as contained in paragraphs 12 to 14 of its report, these decisions make only modest improvements in response to a much larger problem. In this respect, my delegation continues to be disappointed by the lack of interest on the part of some delegations to come to grips with these serious questions. As we have previously noted, we feel that the Committee should address these long-standing problems involving the Subcommittee's method of work.

Mr. REY CORDOBA (Colombia) (interpretation from Spanish): I apologize for requesting to speak once again on this item on our agenda, but I shall be brief and to the point.

I should like to refer to some statements that were made during the debate on this item in order to specify some points, clarify others and, in the final analysis, to ensure that, when this document submitted by the Group of 77 is considered by the Legal Subcommittee, its contents will be clear and free of ambiguities so that the debate can be as specific as possible.

First, referring to the comments made by some delegations on the question of equitable access, I should like to specify that the document does not claim to be a code on equity. As was so well stated by the representative of Romania, it simply attempts to come to grips with the problem so as to identify the points on which consensus is possible and to set aside other

(Mr. Rey Córdoba, Colombia)

aspects that might divide us. All members know that it is impossible to think or to claim that equity is based exclusively on a preferential legal regime governing access to the orbit, and we know that this is the minimal basis that can allow us to begin this kind of deliberation.

Secondly, it is obvious that the Subcommittee is not going to re-establish equity with this principle. We all know that. In any event, it should endeavour to use this as a starting-point for a set of aspects that could lead to the final objectives.

Moreover, I should also like to refer to other comments made on the non-working paper regarding paragraph 7.1. It is clear that when the document refers to access to the same orbital position, it is not referring exclusively to physical access to that orbit. We know that there is a duality - a twofold aspect to the problem: first, access to the orbital position and, second, the frequency used. We know perfectly well that two or more satellites can be located in the same position of the geostationary orbit without any problem, not even interference when operating in different radio frequencies or in the same frequency band beamed at different locations. Moreover, such satellites can coexist even when the same frequency band is beamed towards the same sectors; this would entail operational restrictions, which would, of course, be defrayed by the developing countries.

Therefore, when we speak of the possibility of having access to the same orbital position, I wish to be clear that we are referring more to the radio frequency coexistence than to the physical coexistence of space objects.

I believe that - with these clarifications, the very important comments on this made by Yugoslavia and Romania and the points raised, too, by Chile, which urged that the old inflexible positions on this issue be relinquished

(Mr. Rey Córdoba, Colombia)

and that if we look at this document in a positive way, we can certainly lay the foundation for future agreement on this issue. We are seeking a narrowing of differences on issues that might bring us together, while leaving aside those that divide us.

Mr. GONZALEZ (Chile) (interpretation from Spanish): My delegation is somewhat surprised by the statements made, particularly by the representative of the United States, on the Legal Subcommittee's report. I said we are surprised because, first, it was stated that there was no need for a legal regime governing the geostationary orbit. At the Subcommittee's last session, we listened to a very serious, well thought-out statement that was repeated here by the delegation of Colombia. It is truly an exercise in great flexibility by a developing country that not only takes into account the position of other developing countries but also seeks a compromise and attempts to harmonize the points of view of various developed countries.

If we consider, calmly, the debate that has taken place in the Committee, we shall note that representatives of developed countries spoke warmly of the Colombian proposal. Hence, we categorically reject the possibility of even discussing dropping the item on the geostationary orbit from the Legal Subcommittee's agenda.

Let us engage in an exercise in fiction and follow this argument. We would have to arrive at dropping the items on delimitation of space and the geostationary orbit and on ways and means of maintaining outer space for peaceful purposes; we would then be left with a kind of philosophical reflection - the new legal item - for which it would perhaps be a good idea to return to Graz, to this very friendly environment, and as a group of friends discuss the philosophical significance of certain aspects. On the contrary,

(Mr. Gonzalez, Chile)

we want to renew our genuine mandate to work towards the progressive development of outer space law and proper norms in those areas that still require regulating, such as nuclear power sources in outer space, the delimitation of outer space and the geostationary orbit, because we have not heard any legally sound argument that these issues should not be discussed by the Committee.

(Mr. Gonzalez, Chile)

I recall that, during the discussions on the ways and means of maintaining outer space for peaceful purposes, the delegation of Argentina made a proposal that, to our mind, was very serious yet very straightforward. It simply called for exchanging certain information. In case some members of this Committee do not know, my country is not a member of the Geneva Conference on Disarmament, and we do not understand why we should be stubbornly denied information on certain aspects that are crucial for international peace and security and directly linked to this Committee's mandate.

We want to make this very clear: we categorically refuse to accept the argument that there are items on which we need not negotiate - and this at a time when there are very important efforts being made by countries such as Canada and Germany with regard to nuclear power sources; countries such as Colombia, with regard to the geostationary orbit; countries such as Argentina, on ways and means of maintaining outer space for peaceful purposes; and countries such as Brazil and others, which have put forward a very important proposal on the new item. We feel that simply having an exchange of views among various delegations would run counter to our mandate.

We want to make it absolutely clear in this plenary meeting that the developing countries - and Chile in particular - as well as, I am sure, many developed countries, will continue to struggle so that these items are adequately and more appropriately considered on a legal basis in this Committee and in the Legal Subcommittee.

The CHAIRMAN: I now call on those delegations that would like to put questions to the representative of the International Atomic Energy Agency.

Mr. TETU (Canada): I shall make a statement rather than put a question to the representative of the International Atomic Energy Agency (IAEA). My delegation listened with attention to the statement delivered earlier by Mr. Gonzalez of the IAEA. We noted in particular the fact that the IAEA's intervention, made once principle 3 was adopted by consensus, was not meant to modify this principle adopted by consensus nor was it meant to slow down the progress towards the finalization of the too-long debated principles on nuclear power sources.

We further note that the IAEA will be prepapred to offer its views in the context of any future revision which could be undertaken in accordance with principle 12 - which we hope will be adopted at the next session of the Legal Subcommittee - and this only after the set of principles will be adopted by the outer space Committee and the General Assembly. This is indeed welcome since the IAEA had chosen not to do so for reasons of its own over the many years of negotiations which led to the adoption of this principle.

We must therefore conclude that the IAEA has no fundamental problem with the provisions contained in the current principle 3 adopted by consensus, since it considers sufficient that its views be taken into account in the framework of any future revision undertaken by the Committee, that is, after the Committe adopts the whole set of principles.

The CHAIRMAN: For reasons of economy, it would be best if the representative of the International Atomic Energy Agency answer after all the questions have been put by delegations.

Ms. REDEKER (Germany): First of all I would like to express our support for what was said by our colleague from Canada.

(Ms. Redeker, Germany)

We followed with great interest the statement delivered by the representative of the International Atomic Energy Agency (IAEA). I must admit that my delegation noted with great concern that the IAEA intervened in the session of the Scientific and Technical Subcommittee.

We have now dealt with the principles on nuclear power sources for more than 10 years. A representative of the IAEA has been present at many of our sessions, notably when principle 3 was adopted by consensus in Geneva. We now note gratefully that the IAEA - as its representative explained today - has no longer any fundamental problems with principle 3. My delegation warmly welcomes the cooperation of the IAEA in a future revision.

As you might know, Mr. Chairman, it was a German representative who proposed the introduction of the review clause into the set of principles. Thus, a review clause is incorporated in our working paper, and we think it will be a very useful tool for our work.

Mr. NOREEN (Sweden): My delegation, too, does not have a question to pose to the representative of the International Atomic Energy Agency (IAEA), but would like to express its appreciation and gratitude to him for coming here and setting out in such clear terms the views of the Agency on the question of principle 3 in the list of principles that we have been working on for so many years.

I shall not attempt to interpret what Mr. Gonzalez said. I believe the statement speaks for itself. But I would like to pick up on the last point he raised in his statement, namely, an offer by the Agency to come to this Committee and its two Subcommittees in the future to provide expert services for the purposes of elaborating the principles. I think that is something that is indeed in the interest of this Committee, and I would very much hope

(Mr. Noreen, Sweden)

that it will be possible to include a paragraph to that effect in the final report that we shall adopt later this week.

The CHAIRMAN: As far as the proposal of the representative of Sweden is concerned, the Rapporteur has certainly taken note of the suggestion. Would the representative of the International Atomic Energy Agency like to make an additional comment at this stage?

Mr. GONZALEZ (International Atomic Energy Agency (IAEA)): I believe that, as the representative of Sweden said, our statement speaks for itself.

The CHAIRMAN: I thank the representative of the International Atomic Energy Agency for coming to Graz and making his contribution to our debate.

Mr. ZAWELS (Argentina) (interpretation from Spanish): I shall make my statement brief. I simply wish to say a few words, not exactly on what the last few speakers have talked of, but rather on the speakers who addressed the general subject of item 8 and more particularly the comments made by the representative of the United States.

(Mr. Zawels, Argentina)

My delegation shares the views of Chile on this. After having attended what we felt was a very fruitful and positive debate on this item - a debate in which many delegations came forward with proposals and explanations and tried to clear things up or provide information on legal aspects, which, at least to my delegation, were of great interest and very constructive for the future work of this Committee - we were surprised to have matters raised that were not within our mandate. If I am not mistaken, the most recent relevant General Assembly resolution, 45/72, gives this Committee a clear mandate to review, for example, the questions of nuclear power sources, the definition and delimitation of outer space, the geostationary orbit and spin-off benefits. We do not have a mandate, I believe, to cease dealing with these matters or having constructive debates on these subjects.

Mr. RASHKOW (United States of America): I would just briefly note that we are really quite surprised by the comments that have been directed at the views we presented. We did not think these views - which represent the general views of our delegation on the various topics and are well known to the members of the Committee - were up for debate in this body at this time.

We do not deny what the mandate of this Committee is. It is clearly to discuss certain items. However, the scope and nature of that mandate, as we have previously discussed, have been defined by the Committee in establishing these items. We believe our views on these speak for themselves.

The CHAIRMAN: I now call on the representative of the Food and Agriculture Organization of the United Nations.

Mr. KALENSKY (Food and Agriculture Organization of the United Nations (FAO)): Since this is the first time I have spoken, allow me to congratulate you, Sir, on behalf of the Food and Agriculture organization of the United Nations (FAO), on your election as Chairman of the Committee on the

(Mr. Kalensky, FAO)

Peaceful Uses of Outer Space. We are looking forward to continuing constructive cooperation with this important Committee under your chairmanship.

I also thank members for the opportunity to brief the Committee on FAO's activities related to the application of remote sensing to renewable natural resources. Most of these applications in agriculture, forestry and fisheries, with special emphasis on food security, are indeed spin-off benefits of space technologies. These benefits are increasing with such new space developments as the availability of radio satellite systems, the planned European, Japanese and Canadian satellites, improvements of environmental satellites, deployment of global satellite positioning systems by the United States and the Union of Soviet Socialist Republics, and so forth, to cite just a few examples.

The overall framework for planning FAO's remote sensing activities is provided by the priorities set by FAO's governing bodies, the recommendations of the Second United Nations Conference on the Exploration and Peaceful Uses of Outer Space, the outer space Committee and its Subcommittees, and the Administrative Committee on Co-ordination interagency meetings on outer space activities.

During 1990, the FAO Remote Sensing Centre consolidated its services in three priority areas: operational monitoring of environmental conditions in Africa related to food security; implementation of field projects, such as land-use mapping, natural resources inventories, tropical forest monitoring and natural disasters control; and technology transfer to strengthen the indigenous remote sensing capacities of developing countries. This included the organization of training courses, workshops and pilot projects, and the provision of information and advisory services. Many of these activities have been implemented in cooperation with other organizations.

(Mr. Kalensky, FAO)

FAO has been a strong supporter of cooperation within the United Nations system as well as with Member States and international organizations in order to speed up the development of indigenous remote sensing capacities in developing countries. In 1990, FAO hosted an interagency meeting on outer space activities, which plays a significant role in the coordination of outer space activities within the United Nations system and in strengthening cooperation between its bodies. In this context, I should like to mention the excellent cooperation with the United Nations Outer Space Affairs Div sion and its Expert on Space Applications, which is particularly appreciated. It significantly contributes to the increase of the effectiveness of our technology transfer activities, many of which are conducted jointly with the European Space Agency and other organizations.

FAO has continued its participation, together with the United Nations Department of Technical Cooperation for Development as the joint associate executing agency, in the implementation of the ESCAP/UNDP Regional Remote Sensing Programme. One of the main achievements of this project is its catalytic role in the development of indigenous remote sensing capacities and regional cooperation.

Cooperation with the International Fund for Agricultural Development concerns the use of remote sensing technology for the monitoring and evaluation of field projects.

The best example of cooperation with member countries is the ARTEMIS system for satellite-based, real-time assessment of crop growing conditions in Africa. The ARTEMIS system was funded by the Netherlands and developed in close cooperation between the FAO, the National Aerospace Laboratory of the

(Mr. Kalensky, FAO)

Netherlands, the Earth Resources Branch of the National Aeronautics and Space Administration of the United States Goddard Space Flight Centre, the Universities of Reading and Bristol in the United Kingdom, and various other research groups. ARTEMIS products are distributed to 15 African countries through Japanese-funded FAO projects in Nairobi, Kenya and Harare, Zimbabwe.

In order to assure real-time data transfer between the FAO ARTEMIS system and its users in Africa, FAO is cooperating with the European Space Agency on the development of a dedicated satellite telecommunications system, DIANA. Its experimental operation is expected to start by the end of this year.

The European Space Agency has also funded a joint ESA/FAO pilot study for the development and testing of a methodology for agriculture and forestry application of satellite microwave imagery in developing countries. The first phase was successfully completed early in 1990 and the results documented in three publications. The second phase is ongoing, with new test areas selected in West Africa.

(Mr. Kalensky, FAO)

An important contribution towards strengthening FAO's remote sensing support to field projects was provided through the French Trust Fund for introducing high-resolution satellite imagery to relevant FAO projects. Seven pilot studies for the development of an appropriate methodology have been successfully completed. The second phase of the French Trust Fund for remote sensing was approved at the beginning of this year.

Planned activities include FAO cooperation in the International Space Year (ISY). FAO welcomes this important initiative and through its Remote Sensing Centre plans to participate in the ISY activities related to its mandate, the application of space technologies in agriculture, forestry and fisheries, with particular emphasis on food security.

In concluding, I should like to emphasize that remote sensing, as part of information technology, has an important role in assisting in the maintenance of the equilibrium between the sustainable management of natural resources, environmental protection, and rapidly increasing population. The completion of land-use and vegetation maps and the establishment of efficient environmental monitoring systems and geographic data bases are essential prerequisites for coping with the immense challenge to secure sustainable food production for 6 billion people and to prevent environmental degradation.

Obviously, no single country can solve these tasks. They require a concentrated effort by the whole world community.

The CHAIRMAN: We have just concluded consideration of agenda item 8, "Report of the Legal Subcommittee".

ORGANIZATION OF WORK

The CHAIRMAN: Tomorrow morning, it is my intention to take up agenda item 10, "Spin-off benefits of space technology", and with agenda item 11, "Other matters". I intend, if possible, to conclude our debate on agenda items 10 and 11 tomorrow morning in order to give us the opportunity this afternoon to begin our work on the adoption of the Committee's report.

In this context, I would urge the Secretariat to be prepared to provide the Committee with as many parts of the report as possible so that we can start, in the afternoon, with the consideration of the first parts and take full advantage of the conference facilities.

There is a modest hope that we can conclude our work on Thursday evening, with members' cooperation. Of course, if members wish to stay in Graz for a longer time, that is up to them. But my remarks as far as the organization of work for tomorrow are intended to aim for the conclusion of work on Thursday evening, if possible, which of course requires first of all the Committee's agreement and, secondly, the full cooperation of all delegations.

The meeting rose at 5.45 p.m.